

## Senate Bill No. 247

### CHAPTER 914

An act to amend Section 103525 of, and to add Sections 103525.5, 103526, 103526.5, 103527, and 103528 to, the Health and Safety Code, relating to vital statistics.

[Approved by Governor September 25, 2002. Filed with Secretary of State September 26, 2002.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 247, Speier. Birth and death certificates: certified copies: access.

Existing law prescribes the information to be included on a certificate of death, and on a certificate of live birth, including specified medical and social information that is required to be kept confidential as to a birth record. Existing law requires a State Registrar, local registrar, or county recorder, upon request and payment of the required fee, to supply to any applicant a certified copy of the record of birth or death, except information in a birth record that is designated confidential.

This bill would provide that the State Registrar, local registrar, or county recorder may provide a certified copy of a birth or death record to an authorized person, as defined, who submits a statement sworn under penalty of perjury that the requester is an authorized person. Because the bill would expand the scope of the crime of perjury, the bill would impose a state-mandated local program. If a requester does not meet the requirements of an authorized person, this bill would require the State Registrar, local registrar, or county recorder to issue the certified copy of a birth or death record with a legend stating "INFORMATIONAL, NOT A VALID DOCUMENT TO ESTABLISH IDENTITY." This bill would provide that these provisions would become operative on July 1, 2003.

This bill would, commencing July 1, 2003, require that each certified copy of a birth or death record contain specified information and be printed on sensitized security paper with specified features. This bill would also require the State Registrar, local registrars, county recorders, and county clerks to take precautions to ensure that the security paper is maintained under secure conditions.

This bill would require an applicant for a certified copy of a birth or death record to pay an additional fee of \$2 to be used for specified purposes, including developing safety and security measures to protect against the fraudulent use of birth and death records. This bill would provide that the fee would be reduced to \$1 on January 1, 2006.

This bill would require the State Registrar to appoint a vital records protection advisory committee to, among other things, study and make recommendations to protect individual privacy, inhibit identity theft, and prevent fraud involving birth and death certificates while still preserving access to those seeking it for legitimate purposes. The bill would require the State Registrar to appoint specified individuals to the committee for a term of 3 years, except as provided, on a staggered basis.

This bill would authorize the department to create an automated system to accomplish these provisions.

By imposing new duties on local officials, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

*The people of the State of California do enact as follows:*

SECTION 1. Section 103525 of the Health and Safety Code is amended to read:

103525. (a) The State Registrar, local registrar, or county recorder shall, upon request and payment of the required fee, supply to any applicant a certified copy of the record of any birth, fetal death, death, marriage, or marriage dissolution registered with the official.

When the original forms of certificates of live birth furnished by the State Registrar contain a printed section at the bottom containing medical and social data or labeled “Confidential Information for Public Health Use Only,” that section shall not be reproduced in a certified copy of the record except as specifically authorized in Section 102430.

(b) Notwithstanding subdivision (a) or any other provision of law, commencing July 1, 2003, the State Registrar, local registrar, or county recorder shall provide certified copies of birth and death records only as authorized under Section 103526 or 103526.5.

SEC. 2. Section 103525.5 is added to the Health and Safety Code, to read:



103525.5. (a) Until January 1, 2006, in addition to the fees prescribed by Sections 103625 and 103626, an applicant for a certified copy of a birth or death record shall pay an additional fee of two dollars (\$2). Commencing January 1, 2006, this fee shall be reduced to one dollar (\$1).

(b) Until January 1, 2006, each local registrar or county recorder collecting the fee pursuant to this section shall transmit one dollar and sixty-five cents (\$1.65) of the fee to the State Registrar by the 10th day of the month following the month in which the fee was received. Commencing January 1, 2006, each local registrar or county recorder collecting the fee pursuant to this section shall transmit sixty-five cents (\$.65) of the fee to the State Registrar by the 10th day of the month in which the fee was received. These funds, and fees collected by the State Registrar pursuant to this section, shall be used by the State Registrar, upon appropriation by the Legislature, to develop safety and security measures to protect against fraudulent use of birth and death records, including, but not limited to, computerizing records, redacting and removing signatures as required by law, and electronically distributing redacted records to local registrars and county recorders for their use in complying with Sections 103526 and 103526.5.

(c) Thirty-five cents (\$0.35) of the fee specified in subdivision (a) shall be retained by the public official charged with the collection of the fee to defray the costs of the additional security features required by Sections 103526 and 103526.5.

(d) The entire amount of the fee collected pursuant to subdivision (a) by the State Registrar shall be retained and used by the State Registrar, upon appropriation by the Legislature, for the purpose specified in subdivision (b). The entire amount of the fee collected by the local registrar or county recorder pursuant to subdivision (c) shall be retained and used by that official for the purpose specified in subdivision (c).

SEC. 3. Section 103526 is added to the Health and Safety Code, to read:

103526. (a) If the State Registrar, local registrar, or county recorder receives a written request for a certified copy of a birth or death record pursuant to Section 103525 that is accompanied by a notarized statement sworn under penalty of perjury that the requester is an authorized person, as defined in this section, that official may furnish a certified copy to the applicant in accordance with Section 103525. If a request for a certified copy of a birth or death record is made in person, the official shall take a statement sworn under penalty of perjury that the requester is signing his or her own legal name and is an authorized person, and that official may then furnish a certified copy to the applicant.



(b) In all other circumstances, the certified copy provided to the applicant shall be an informational certified copy and shall display a legend that states “INFORMATIONAL, NOT A VALID DOCUMENT TO ESTABLISH IDENTITY.” The legend shall be placed on the certificate in a manner that will not conceal information.

(c) For purposes of this section, an “authorized person” is any of the following:

(1) The registrant or a parent or legal guardian of the registrant.

(2) A party entitled to receive the record as a result of a court order, or an attorney or a licensed adoption agency seeking the birth record in order to comply with the requirements of Section 3140 or 7603 of the Family Code.

(3) A member of a law enforcement agency or a representative of another governmental agency, as provided by law, who is conducting official business.

(4) A child, grandparent, grandchild, sibling, spouse, or domestic partner of the registrant.

(5) An attorney representing the registrant or the registrant’s estate, or any person or agency empowered by statute or appointed by a court to act on behalf of the registrant or the registrant’s estate.

(6) Any funeral director who orders certified copies of a death certificate on behalf of any individual specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 7100.

(d) Any person who asks the funeral director to request a death certificate on his or her behalf warrants the truthfulness of his or her relationship to the decedent, and is personally liable for all damages occasioned by, or resulting from, a breach of that warranty.

(e) Notwithstanding any other provision of law, funeral directors who order death certificates on behalf of individuals specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 7100 shall not be required to provide the notarized statement required by subdivision (a).

(f) Informational certified copies of birth and death certificates issued pursuant to subdivision (b) shall only be printed from the single statewide database prepared by the State Registrar and shall be electronically redacted to remove any signatures for purposes of compliance with this section. Local registrars and county recorders shall not issue informational certified copies of birth and death certificates from any source other than the statewide database prepared by the State Registrar. This subdivision shall become operative on January 1, 2006.

(g) This section shall become operative on July 1, 2003.

SEC. 4. Section 103526.5 is added to the Health and Safety Code, to read:



103526.5. (a) Each certified copy of a birth or death record issued pursuant to Section 103525 shall include the date issued, the name of the issuing officer, the signature of the issuing officer, whether that is the State Registrar, local registrar, county recorder, or county clerk, or an authorized facsimile thereof, and the seal of the issuing office.

(b) (1) All certified copies of birth and death records issued pursuant to Section 103525 shall be printed on chemically sensitized security paper that measures 8<sup>1</sup>/<sub>2</sub> by 11 inches and that has the following features:

- (A) Intaglio print.
- (B) Latent image.
- (C) Fluorescent, consecutive numbering with matching bar code.
- (D) Microprint line.
- (E) Prismatic printing.
- (F) Watermark.
- (G) Void pantograph.
- (H) Fluorescent security threads.
- (I) Fluorescent fibers.
- (J) Any other security features deemed necessary by the State Registrar.

(2) In addition to the security features required by paragraph (1), commencing January 1, 2006, the security paper used for informational certified copies of birth and death records pursuant to subdivision (b) of Section 103526 shall also contain a statement in perforated type that states “INFORMATIONAL, NOT A VALID DOCUMENT TO ESTABLISH IDENTITY.”

(c) The State Registrar, local registrars, county recorders, and county clerks shall take precautions to ensure that uniform and consistent standards are used statewide to safeguard the security paper described in subdivision (b), including, but not limited to, the following measures:

- (1) Security paper shall be maintained under secure conditions so as not to be accessible to the public.
- (2) A log shall be kept of all visitors allowed in the area where security paper is stored.
- (3) All spoilage shall be accounted for and subsequently destroyed by shredding on the premises.

(d) This section shall become operative on July 1, 2003.

SEC. 5. Section 103527 is added to the Health and Safety Code, to read:

103527. (a) The State Registrar shall appoint a Vital Records Protection Advisory Committee to study and make recommendations to protect individual privacy, inhibit identity theft, and prevent fraud involving birth and death certificates while providing needed access to



birth and death record information to those seeking it for legitimate purposes. The committee shall have the following duties:

(1) Review and make recommendations as to the adequacy of procedures to safeguard individual privacy and prevent fraud, while ensuring appropriate access to birth and death records.

(2) Make recommendations to the State Registrar as to items that should be redacted from informational certified copies of birth and death certificates issued pursuant to Section 103526.

(3) Make recommendations to the State Registrar regarding fraud prevention measures concerning vital records.

(b) The committee shall include representatives from private and governmental entities that use vital records as identity or legal documents, consumers, law enforcement officials, genealogists, and organizations that research vital records for legal or social purposes. The State Registrar shall make every effort to ensure that committee membership also represents the community at large.

(c) (1) Except as provided in paragraph (2), membership on the committee shall be for a term of three years.

(2) Appointments shall be made on a staggered basis to allow for a change of one-third of the membership on an annual basis. One-third of the initial committee membership shall be appointed to one-year terms, and one-third of the initial committee membership shall be appointed to two-year terms.

SEC. 6. Section 103528 is added to the Health and Safety Code, to read:

103528. The department may create an automated system for the purposes of implementing Sections 103525, 103525.5, 103526, and 103526.5.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement



does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

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